

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING

Call to Order: By **CHAIRMAN DAVE KASTEN**, on January 23, 2003 at 8:30 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Rep. Dave Kasten, Chairman (R)
Sen. Tom Zook, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Bob Keenan (R)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Catherine Duncan, Legislative Branch
Jane Hamman, OBPP
CJ Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: HOUSE BILLS 6 & 8 RENEWABLE
RESOURCE GRANT & LOAN APPLICATIONS;
HOUSE BILL 11 - TREASURE STATE
ENDOWMENT PROGRAM APPLICATIONS

CHAIRMAN KASTEN opened the hearing for executive action on HB 6 and 8, RRGL grants through the Department of Natural Resources, and House Bill 11, TSEP grants through the Department of Commerce. **Cathy Duncan, LFA**, provided two worksheets entitled; 1) 2005 RRGL Funding Recommendations Exhibit 1; and 2) Renewable Resource Grant Priority Worksheet Exhibit 2.

EXHIBIT (j1h14a01)

EXHIBIT (j1h14a02)

EXECUTIVE ACTION ON HB 6

REP. JOHN E. WITT, House District 89, said HB 6 appropriates money to the Department of Natural Resources and Conservation (DNRC) for grants under the Renewable Resource Grant and Loan Program (RRGL) by establishing conditions for grants and providing effective dates. **REP. WITT** asked for a do pass motion.

CHAIRMAN KASTEN discussed an amendment for Richland County Conservation District (Irrigation Potential of Ground Water). He said to strike the \$85,212, and insert \$100,000. This will correct the existing dollar amount on page 5, line 2 to read the correct amount available.

Motion/Vote: **SEN. ZOOK** moved **TO ADOPT AMENDMENT FOR RICHLAND COUNTY CONSERVATION DISTRICT PROJECT 45, PG. 131, RRGL. THE MOTION WAS MADE TO STRIKE \$85,212 on page 5, line 2 of HB 6, AND INSERT \$100,000. Motion carried unanimously.**

The committee discussed combining all projects that are \$100,000, and reduce each project by \$5,000 or \$10,000. **SEN. ZOOK** said to look at the requests that are below the funding line, the projects that were cut, and determine if extra funds from this could fund other projects that didn't make the list. **REP. Kaufmann** commented on DNRC prioritizing these studies over projects. **Mr. Tubbs** said the studies are for feasibility, design and resource assessment to start a project, and they should not be struck out completely.

CHAIRMAN KASTEN reviewed the projects that are studies and those that are construction:

- 1) PROJECT NO. 2, PG. 20, RRGL BOOK, DAWSON COUNTY (Yellowstone River floodplain management
- 2) PROJECT NO. 5, PG. 28, RRGL, NORTH POWELL CONSERVATION DISTRICT (Blackfoot River Habitat, Water Quality, and Restoration Enhancement).
- 3) PROJECT NO. 6, PG. 30, MONTANA DEPARTMENT OF AGRICULTURE(Expansion of Monitoring Well Network for the Assessment of Ag Chemicals).

- 4) PROJECT NO. 10, PG. 41, RRGL, PARK CO. (North Park Co. Water Resources Protection and Management plan).
- 5) PROJECT NO. 18, PG. 64, RRGL, DNRC, (Seepage Monitoring Project - DNRC dams).
- 6) PROJECT NO. 20, PG. 69, RRGL, STILLWATER COUNTY, (Yellowstone River Floodplain Management).
- 7) PROJECT NO. 21, PG. 71, RRGL, YELLOWSTONE COUNTY, (Yellowstone River Floodplain Management).
- 8) PROJECT NO. 32, PG. 99, RRGL, LEWIS AND CLARK COUNTY WATER QUALITY PROTECTION DISTRICT (Groundwater Sustain ability in North Hills Area, Helena).
- 9) PROJECT NO. 37, PG. 112, RRGL, GALLATIN LOCAL WATER QUALITY DISTRICT (Dedicated Monitoring Well Network for the Gallatin Valley).

John Tubbs, Bureau Chief, Resource Development Bureau, DNRC, informed the committee that Project No. 6 is a study not a project.

SEN. KEENAN discussed the projects below the funding cutoff line that are studies and not projects.

Motion/Vote: **REP. KASTEN** moved **TO REMOVE BUTTE-SILVER BOW, PROJECT 41, PG. 122, RRGL, FROM THE FUNDING LIST. Motion carried unanimously.**

Motion/Vote: **SEN. TESTER** moved **TO REMOVE HILL COUNTY, BEAVER CREEK DAM OUTLET WORKS REPAIR, PROJECT 42, PG. 124, RRGL, FROM THE FUNDING LIST. Motion carried unanimously.**

{Tape: 1; Side: A; Approx. Time Counter: 15 - 20; Comments: motion for Projects 41 and 42.}

MONTANA DEPARTMENT OF CORRECTIONS PROJECT NO. 39, PG. 117, (Rehabilitation of Prison Ranch Dam) Project No. 39, was discussed by the committee and questions were answered by **Gail Lambert, Department of Corrections. Ms. Lambert** said if the funding is not received the impact would be to scrap the project by breaching the dam. No motion was taken at this time. **Mr. Tubbs** informed the committee that only \$8,000 out of this grant is nongrant monies.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3}

Motion/Vote: **REP. KASTEN** moved **TO REMOVE GLASGOW IRRIGATION DISTRICT--Vandalia Dam, PROJECT 44, PG. 129, RRGL, FROM THE FUNDING LIST. Motion carried unanimously.**

Discussion:

Mr. Tubbs discussed the projects that didn't make the funding line. Committee asked questions and **Mr. Tubbs** responded.

Motion/Vote: SEN. ZOOK moved TO REMOVE GALLATIN LOCAL WATER QUALITY DISTRICT--DEDICATED MONITORING WELL NETWORK FOR THE GALLATIN VALLEY PROJECT NO. 37, PG. 112, RRGL, FROM THE FUNDING LIST.

Substitute Motion/Vote: REP. KAUFMANN moved TO LEAVE 50 PERCENT OF THE \$100,000 FUNDING IN FOR GALLATIN DISTRICT, PROJECT NO. 37, PG. 112, RRGL. Substitute motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 26 - 28; Comments:}

Motion/Vote: SEN. TROPILA moved TO REDUCE 50 PERCENT OF THE FUNDING FOR LEWIS AND CLARK COUNTY WATER QUALITY PROTECTION DISTRICT, PROJECT NO. 32, PG. 99, RRGL. Motion carried 6-1 with REP. KAUFMANN voting no.

{Tape: 2; Side: B}

Discussion:

The committee discussed combining the three floodplain projects listed on (Exhibit 2):

- 1) PROJECT NO. 2, PG. 20, RRGL BOOK, DAWSON COUNTY (Yellowstone River floodplain management)
- 2) PROJECT NO. 20, PG. 69, RRGL, STILLWATER COUNTY, (Yellowstone River Floodplain Management).
- 3) PROJECT NO. 21, PG. 71, RRGL, YELLOWSTONE COUNTY, (Yellowstone River Floodplain Management).

Motion/Vote: SEN. TESTER moved PROJECTS NO. 2, 20, and 21, BE CONSIDERED AS ONE PROJECT AND REDUCE THE FUNDING BY 25 percent. This will give DNRC the flexibility to determine the dollar portions for each project. Motion carried 6-1 with REP. KAUFMANN voting no.

{Tape: 2; Side: A; Approx. Time Counter: 11 - 15}

Mr. Tubbs discussed HYSHAM IRRIGATION DISTRICT (Structural Inventory and Hydraulic Analysis), PG. 184, RRGL. The headgate of the dam for the irrigation ditch has deteriorated, and when it goes, there will not be any irrigation water. He said if the committee wanted him to work with Hysham, and the committee amend

in the extra \$50,000 for emergency funds to the \$125,000 already appropriated for the emergency fund, he will make a commitment to this committee to hold the \$50,000 for one fiscal year. He said there are other project planning grants that Hysham has access to, and he will help them with this funding. He said if Hysham comes back in one year with a project that can be completed for the headgate, DNRC will make an exception to grant Hysham the funds to build the project.

Motion: SEN. ZOOK moved TO APPROVE DNRC PROPOSAL OF HOLDING THE \$50,000 EMERGENCY FUNDS IF HYSHAM, PG. 184, RRGL, COMES BACK AND NEEDS THE EMERGENCY FUNDS FOR THE HEADGATE ON THE DAM.

Motion/Vote: REP. KAUFMANN moved TO PLACE THE EXTRA \$50,000 INTO THE EMERGENCY GRANT FUND, AND THE DEPARTMENT BE DIRECTED TO WORK WITH HYSHAM TO GET THEIR ENGINEERING IN PLACE IN ORDER TO UTILIZE THE FUNDS AVAILABLE TO THEM. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 18 - 22; Comments:}

Motion: REP. KASTEN moved TO REDUCE FUNDING BY 50 PERCENT TO PARK COUNTY, PROJECT 10, PG. 41, RRGL.

Discussion: REP. Kaufmann said the committee is working on the top ten projects given to the committee by DNRC, and feels the committee is taking a big hit from one of the projects in the top ten list. She proposed a substitute motion to take 25 percent, not 50 percent of the funds from the project.

Substitute Motion/Vote: REP. KAUFMANN moved TO REDUCE THE FUNDS FOR PARK COUNTY BY 25 PERCENT, INSTEAD OF 50 PERCENT. Motion carried 4-3 with SEN. ZOOK, SEN. TROPILA AND REP. KASTEN voting no.

Motion/Vote: SEN. KEENAN moved TO STRIKE MILSTONE PROJECT FROM THE LIST. Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 5}

Ms. Duncan discussed the North Powell Project on HB 6, page 2, line 11, by 50 percent.

Motion/Vote: SEN. KEENAN moved TO REDUCE NORTH POWELL CONSERVATION DISTRICT, PROJECT 5, PG. 28, FUNDS BY 50 PERCENT. Motion failed 1-6 with REP. SEN. WITT voting aye.

Motion/Vote: SEN. TESTER moved TO REDUCE GALLATIN LOCAL WATER QUALITY DISTRICT, PROJECT 37, PG. 112, RRGL, TO \$50,000 DO PASS. Motion carried unanimously.

Motion/Vote: SEN. ZOOK moved TO REDUCE DEPARTMENT OF CORRECTIONS, PROJECT NO. 39, PG. 117, RRGL, FROM \$100,000 TO \$80,000. THE \$20,000 WILL BE PLACED INTO EMERGENCY FUNDS FOR CARTERSVILLE. Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Counter: 6 - 8}

Discussion:

Mr. Tubbs discussed the cuts that have taken place from the above motions: a) Dawson Co., Project No. 2, cut to \$75,000; b) Park Co., Project No. 10, cut to \$75,000; c) Stillwater Co., Project 20, cut to \$75,000; d) Yellowstone Co., Project 21, cut to \$75,000; e) Lewis and Clark Co. Water Quality Protection District, Project 32, cut to \$50,000; f) Gallatin Local Water Quality District, Project No. 37, cut to \$50,000; g) Montana Department of Corrections, Project No. 39, cut to \$80,000.

Mr. Tubbs stated the cuts will fund the Fort Shaw Irrigation District, Project No. 40, Pg. 120, RRGL, at \$89,122, leaving a balance of \$60,000 from the above cuts.

Mr. Tubbs said the Richland Co. Conservation District, Project No. 45, Pg. 131, RRGL, is increased to \$100,000, but only \$60,000 is currently available.

Motion/Vote: SEN. TESTER moved TO REDUCE RICHLAND COUNTY CONSERVATION DISTRICT, PROJECT NO. 45, PG. 131, RRGL, FROM \$60,000 TO \$50,000, AND THE REMAINDER \$10,000 BE PLACED INTO THE EMERGENCY FUND. Motion carried 6-1 with CHAIRMAN KASTEN voting no.

Discussion:

Mr. Tubbs recommended that the committee not fund any of the final design reports, only fund the ground construction projects as monies become available. He suggested striking all the projects above Project No. 50. **Mr. Tubbs** discussed the available monies that are currently in the emergency fund for this biennium. There is only \$19,000 remaining and still have six months left in the biennium.

CHAIRMAN KASTEN asked **Mr. Tubbs** if he recommended the committee taking the Milk River Joint Board of Control--Nelson Reservoir

Design Project No. 46, pg. 134, RRGL, off of the list. Mr. Tubbs said that with the motions already taken to strike this study, and leave Projects No's. 47, 48, 49 and 50 in the bill and strike all projects below 50.

Motion/Vote: SEN. TESTER moved **TO STRIKE PROJECT NO. 46, AND STRIKE ALL PROJECTS FROM PROJECT 51 THROUGH 62.** Motion carried unanimously.

Discussion:

REP. WITT addressed BLACKFEET TRIBE Oki Mamii (Hello Fish) PROJECT 26, PG. 84, RRGL. He said this is a great project, but will it be opening the door for other projects in the future along this line. He wouldn't make a motion to remove it, but said he is concerned with this issue. The monies the committee is dealing with is for specific purposes and feels it will get out of hand.

Motion: SEN. KEENAN moved **TO STRIKE PROJECT NO. 26.**

CHAIRMAN KASTEN said he is opposing the motion because it is a unique project for the 4th and 5th grade science class. The Blackfeet Tribe made this application for a grant of \$23,581 through DNRC, stating this project can do a lot of good for the relations in the area.

REP. WITT and **SEN. ZOOK** said they support **SEN. KEENAN'S** motion. **REP. TESTER** said he opposes the motion because the goodwill aspects of this will go out of the Full House Appropriation's Committee that will be held later in the session. **CHAIRMAN KASTEN** said he would feel better if this project had been in HB 9 which he is carrying this time.

SEN. KEENAN withdrew his motion to strike Project No. 26. Discussion followed.

Mr. Tubbs informed the committee why Project 26 was rated so high on the list, stating this is the first time a tribal community have made application for a grant through DNRC.

Motion/Vote: SEN. KEENAN moved **TO STRIKE PROJECT 26, AND PLACE THE GRANT FUNDS OF \$23,581 INTO THE EMERGENCY FUND.** Motion carried 4-3 with **SEN. TROPILA, SEN. TESTER AND REP. KAUFMANN,** voting no.

Motion/Vote: REP. WITT moved **TO ADOPT HB 6 AS AMENDED.** Motion carried unanimously.

{Tape: 3; Side: A; Approx. Time Counter: 2 - 5; Comments:}

EXECUTIVE ACTION ON HB 8

REP. WITT opened the hearing on HB 8, stating it is an act to approve renewable resource projects authorized by the 57th Legislature. HB 8 appropriates money to the Department of Natural Resources (DNRC), under the renewable resource grant and loan program, and authorizing the issuance of coal severance tax bonds.

Mr. Tubbs discussed Figure 9 on (Exhibit 1). **Mr. Tubbs** said HB 8 is not discussed much because it is not competitive. He informed the committee the projects on Table 9 are identified in groups. He asked the committee members to strike both projects for Hill County; 1) Beaver Creek Dam Outlet Works Repair; and 2) Water Treatment Plant. There was discussion on the interest rates of the listed projects, and they were informed that all new projects start out at 4.5 percent.

Mr. Tubbs discussed the two Hill County Projects. **CHAIRMAN KASTEN** informed the committee to leave Hill County--Beaver Creek Dam Outlet Works Repair in and strike Hill County--Water Treatment Plant. **Mr. Tubbs** said the committee will be striking lines 15 and 16, page 2, of HB 8, in its entirety.

Motion/Vote: **SEN. KEENAN** moved **TO STRIKE HILL COUNTY WATER TREATMENT PLANT FROM THE FUNDING.** Motion carried unanimously.

Motion/Vote: **SEN. ZOOK** moved **TO ADOPT HB 8 AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HB 11

CHAIRMAN KASTEN, HD 99, opened HB 11 for executive action. **Mr. Edgcomb, DNRC,** discussed the impact that HB 345 will have on HB 11. **Mr. Edgcomb** said the 38 projects per the Legislative Fiscal Analyst (LFA) to be funded are listed on Table 2, TSEP Grant Recommendations 2005 Biennium (Ex. 2). **CHAIRMAN KASTEN** said of the 38 projects to be funded, there will be two or three of them contingent on funds available. **Mr. Edgcomb** said the four projects that have been referred back to the department, the committee will be able to recapture the funds for those projects that are contingent on funds available. **Mr. Edgcomb** discussed the list and the funding of the four projects that have been removed, the dollar amounts that have been recaptured that the committee will be able to use on other projects that didn't make the list, or were cut because they were too low on the list.

1) Richland County was awarded \$181,155 by the 1999 Legislature. This project has been completed with \$23,000 remaining that can be allocated elsewhere; 2) City of Boulder was awarded \$500,000 by the 1999 Legislature. Part of the project has been completed with the exception of the corroded water lines. TSEP held back \$180,000 for the corrosion control if needed. He said Boulder has not shown validity in resolving this problem, and stated the committee can recapture \$180,000; 3) Hill County Water District was awarded TSEP funds of \$500,000 by the 1995 Legislature for a water treatment plant. **Mr. Edgcomb** said the regional water system does not require immediate attention at this time, and the committee can recapture the \$500,000. **Mr. Edgcomb** said he would like an amendment to HB 11 that will terminate this grant for the Hill Co Project. The remaining projects can be terminated by administrative action through his office.

Motion/Vote: SEN. ZOOK moved TO STRIKE THE HILL COUNTY GRANT OF \$500,000 FROM THE LIST ON TABLE 2, (Exhibit 1). Motion carried unanimously.

Discussion:

Mr. Edgcomb continued with the last project: 4) City of Conrad was awarded \$100,000 by the 2001 Legislature. The funding that was previously granted for the project was an emergency grant, it is the same project requesting TSEP funds listed on Table 2, (Exhibit 4). **CHAIRMAN KASTEN** said a motion will be made to take the \$100,000 that was not utilized by Conrad and place it elsewhere.

Motion/Vote: REP. WITT moved TO REMOVE THE EMERGENCY FUND OF \$100,000 FOR THE CITY OF CONRAD. Motion carried unanimously.

Discussion:

Mr. Edgcomb asked that the committee not do anything with the last two projects at this time; 1) the town of Ekalaka, \$87,200. **Mr. Edgcomb** said the application will be cut if HB 345 passes, if this happened, Conrad will be able to utilize the funds to complete the project; and 2) city of Helena for \$25,000 being held due to project not completed. He has given them until March 31, 2003 to have the paper work turned in.

Rep. Kaufmann introduced **Tim Burton, City of Helena**. **Mr. Burton** informed the committee of the different projects that have been completed and those that have been held up due to contractors.

Mr. Edgcomb informed the committee with the recapture of the four projects the motions have added an additional \$803,000.

CHAIRMAN KASTEN asked **Mr. Edgcomb** how much money is appropriated for emergency funds. **Mr. Edgcomb** said the department is allowed \$100,000 to start with for each year, and have \$23,000 remaining this second year of the biennium. He said they have recently awarded Madison County emergency funds of approximately \$7,000, and there is still a half of a year left to go.

Ms. Hamman discussed HB 11, page 3, stating that technical amendments will not be needed to adjust the project numbers in the bill. The bill states that projects 41 through 43 have already been pulled from the funding.

Mr. Edgcomb informed the committee that an amendment has been prepared and the department is coordinating with the LFA to deal with HB 345. This is a contingency amendment that corrects language in HB 345, section 1, will change to section 2, and list the new projects and their corresponding project numbers with the diversion of funds.

CHAIRMAN KASTEN said he is aware of the amendment, but said he wanted to leave HB 11 as is.

Mr. Edgcomb suggested another amendment for HB 11, page 3, line 21, regarding reference towards funds taken from the 2007 Biennium. He said concerns have been raised regarding the constitutionality of taking this action.

Todd Everts, Staff Attorney, LFA, said that historically, in Section 9 of the Constitution, requires that the appropriations may not exceed anticipated revenues. The Supreme Court has stated only for incurring legally established debt, such as, bonding. The legislature cannot bind future legislatures appropriating money, and appropriations cannot be longer than two years. **Mr. Everts** feels the language offered by **Mr. Edgcomb** is an attempt to bind the 2005 Legislature in appropriating money toward these projects. He suggested an amendment that will basically recommend that the 59th Legislature give priority to funding these projects in future legislatures.

CHAIRMAN KASTEN asked for a motion to recommend funding priority for the projects in question.

Motion/Vote: **SEN. TROPILA** moved **THAT THE 59TH LEGISLATURE GIVE PRIORITY TO FUNDING THESE PROJECTS IN THE 2005 LEGISLATURE.**

Motion carried unanimously.

Mr. Edgcomb said the regional water projects listed on HB 11, page 6, line 2 figure cannot go higher than what has been appropriated.

Motion: SEN. TROPILA moved **A CONCEPTUAL MOTION TO AMEND THE DOLLAR AMOUNT TO REFLECT THE CORRECT AMOUNT.**

Discussion: CHAIRMAN KASTEN said to leave the wording the way it is because it will not take away from the projects. He said whatever monies is in there will be appropriated for the regional water projects. Ms. Hamman said there was testimony in House Appropriations Committee on January 22, 2003, stating administrative costs will be taken out of this appropriation. She said the Congressional action to date, and the Congressional action anticipated for HB 176 will not be needed at this time.

SEN. TROPILA withdrew his motion.

CHAIRMAN KASTEN informed the committee there is \$30,000 request for another water project which will include Garfield and McCone Counties. He said this is "political clout" with Pick Sloan monies that were offered when Fort Peck Reservoir was built, and the federal government has never paid up on these promises. He said that SENATORS BURNS, BAUCUS, AND EBERG, are working on this and it looks promising that the funding will come through.

Motion/Vote: SEN. ZOOK moved **TO ADOPT HB 11 DO PASS AS AMENDED.**
Motion carried unanimously.

CHAIRMAN KASTEN closed the hearing on executive action for HB 6, 8, and 11.

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. DAVE KASTEN, Chairman

CJ JOHNSON, Secretary

DK/CJ

EXHIBIT (j1h14aad)